

Application No. 09/839342
Page 5

Amendment
Attorney Docket No. E14.2B-9321-US01

Remarks

Claims 1-20 and 28-31 have been canceled without prejudice. Applicants reserve the right to prosecute these claims in a continuation or divisional application.

Rejections

35 U.S.C. 102(b)

Herd et al., U.S. Patent No. 5,998,358

Claims 21-27 have been rejected under 35 U.S.C. 102(b) as being anticipated by Herdt et al (US Patent No. 5,998,358). The Office Action asserts that Herdt et al teach a method as claimed, the method comprises the steps as claimed, the method comprises the specifically claimed polymers at specifically claimed pH and teaches the same commercially available products as the instant invention.

Claim 21 has been amended. Support is found at least from pages 7 and 8, particularly page 7, from example 1 and from claim 4 as originally filed. Applicants submit that for specific embodiments of the present invention, the application demonstrates that the pre-rinse composition may include only a partially neutralized anionic polymer, a co-builder and a source of alkalinity or combination thereof.

No new matter has been added.

New claim 34 finds support at least from claim 21 as originally filed, and from the Summary of the Invention.

Both claims 21 and 34 are patentably distinguishable over Herdt et al., US Patent No. 5,998,358. Herdt et al. discloses an acidic detergent composition which includes, as an essential component, solvent.

The pre-rinse recited in claim 21 is directed to a pre-rinse composition consists essentially of a partially neutralized anionic polymer, co-builder(s) and an alkaline source(s). This claim is therefore patentably distinct over Herdt et al.

Claims 22-27 depend from claim 21 and are patentable for at least the reasons that claim 21 is patentable over Herdt et al.

Support for new claim 32 which depends from claim 21 and new claim 35 which depends from claim 34 can be found at least from claim 4 as originally filed.

Application No. 09/839342
Page 6

Amendment
Attorney Docket No. E14.2B-9321-US01

Support for new claim 33 which depends from claim 21 and new claim 36 which depends from claim 34 can be found at least from page 7, lines 19-27.

No new matter has been added.

Applicants respectfully request withdrawal of the rejection of claims 21-27 under 35 U.S.C. 102(b) as anticipated by Herdt et al (US Patent No. 5,998,358).

Oakes et al., U.S. Patent No. 5,858,117

Claims 21-27 have been rejected under 35 U.S.C. 102(b) as being anticipated by Oakes et al (US Patent No. 5,858,117).

As discussed above, claim 21 has been amended.

Claim 21 is patentably distinguishable over Oakes et al., US Patent No. 5,858,117. Oakes et al. disclose an enzyme based detergent composition. Claim 21, as amended, recites a cleaning composition consisting essentially of a partially neutralized anionic polymer, at least one co-builder and at least one source of alkalinity.

As the pre-rinse composition recited in amended claim 21, does not include enzymatic detergents, Applicants submit that claim 21 as amended is patentably distinct from Oakes et al.

Claims 22-27 depend from claim 21 and are patentable for at least the reasons that claim 21 is patentable over Oakes et al.

New claims 32 and 33 also depend from claim 21 and are patentable for at least the reasons that claim 21 is patentable.

New claims 34-36 are patentable for at least the reasons that claim 21 is patentable over Oakes et al.

Applicants respectfully request withdrawal of the rejection of claims 21-27 under 35 U.S.C. 102(b) as being anticipated by Oakes et al. (US Patent No. 5,858,117).

Application No. 09/839342
Page 7

Amendment
Attorney Docket No. E14.2B-9321-US01

35 U.S.C. 103(a)

Claims 21-27 have been rejected under 35 U.S.C. 103(a) as being obvious over Troller (Sanitation in Food Processing) in view of Lange (Detergent and Cleaners. A Handbook for Formulators) and Oakes et al. and Herdt et al.

The Office Action asserts that:

Troller teaches that Clean-in-Place (CIP) systems are conventionally used in dairy operation and shows a conventional sequence of a CIP cleaning. See pages 44-51.

Troller teaches that the conventional CIP operation comprises the claimed steps of flushing and washing.

The Office Action admits that Troller fails to teach Applicants specifically claimed neutralized anionic polymers in the solutions.

The Office Action employs the Lange Handbook as evidence that the use of the referenced polymers was conventional in CIP formulations for food processing, that Lange provides a discussion regarding properties of the referenced polymers and states the polymers are used to increase the performance of cleaning, and that Lange teaches that the referenced polymers are conventionally used as sequestering agents (See pages 124-132).

Thus, it is asserted, that it would have been obvious to an ordinary artisan at the time the invention was made to use the polymers disclosed by Lange at any stage of conventional CIP operations in dairy industry disclosed by Troller as water conditioning/sequestering agents in order to increase the performance of cleaning, with reasonable expectation of success, because Lange teaches that such polymers are conventionally used to increase the performance of cleaning, especially in view of teaching of Oakes et al. and Herdt et al., which evidence that it was known to use the referenced polymers in different formulations for CIP cleaning in dairy operations.

Applicants disagree.

First, in response the assertion in the Office Action that Troller teaches that clean-in-place (CIP) systems are conventionally used in dairy operations and shows conventional sequence of CIP cleaning, Applicants have never stated that CIP operations are not conventional in the art. Applicants have stated that the rinse is typically water. This is not inconsistent with

Application No. 09/839342
Page 8

Amendment
Attorney Docket No. E14.2B-9321-US01

the teachings of Troller. See page 47, Table VII. Surfactant is added to the wash stream in step 2. Troller fails to suggest a rinse solution as recited in independent claim 21.

Applicants rinse solution, on the other hand, includes a partially neutralized anionic polymer, with which Applicants have obtained unusually effective cleaning at reduced concentrations of chemicals even compared to industry standards. See the examples, pages 12-19 of the specification, with particular attention to pages 16-19. This is an unexpected result.

Lange fails to suggest a rinse solution of the type recited in independent claim 21.

Herd et al. and Oakes et al. are different for the reasons discussed above.

This combination of references fails to suggest a rinse solution of the type recited in independent claim 21.

Claims 22-27 depend from claim 21 and are patentable for at least the reasons that claim 21 is patentable.

New claims 32 and 33 depend from claim 21 and are patentable for at least the reasons that claim 21 is patentable.

New claim 34 is also seen as being patentably distinct over the combination of references for at least the reasons that claim 21 is patentable over this combination of references. New claims 35 and 36 depend from claim 34.

Applicants respectfully request withdrawal of the rejection of claims 21-27 under 35 U.S.C. 103(a) as being obvious over Troller (Sanitation in Food Processing) in view of Lange (Detergent and Cleaners. A Handbook for Formulators) and Oakes et al. and Herd et al.

Application No. 09/839342
Page 9

Amendment
Attorney Docket No. E14.2B-9321-US01

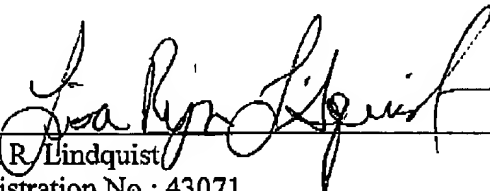
CONCLUSION

Claims 21-27 and 32-36 are pending in the application. Applicants have addressed each of the issues presented in the Office Action. Based on the foregoing, Applicants respectfully request reconsideration and an early allowance of the claims as presented. Should any issues remain, the attorney of record may be reached at (952)563-3011 to expedite prosecution of this application.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: December 8, 2005

By: 
Lisa R. Lindquist
Registration No.: 43071

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

f:\wpwork\lrl\09321us01_amd_20051202.doc